

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**JOZABET CASTRO-GARZON,**

**Defendant.**

**CASE NO. 8:04CR302**

# MEMORANDUM AND ORDER

This matter is before the Court on the motion filed for relief under 28 U.S.C. § 2241 (Filing No. 254) filed by the Defendant, Jozabet Castro-Garzon.

The Defendant was found guilty after a jury trial of conspiring to distribute 500 grams or more of methamphetamine. He was sentenced to 188 months imprisonment. On June 21, 2006, the Eighth Circuit Court of Appeals affirmed this Court's decision. On July 1, 2010, the Court denied the Defendant's motion filed under 28 U.S.C. § 2255 as untimely. This motion followed.

Although entitled as a § 2241 motion, the Defendant argues the same issue raised in his § 2255 motion and on appeal. The Defendant continues to argue that the jury did not find the precise drug quantity attributed to him, in violation of the Sixth Amendment to the United States Constitution. The primary purpose of a § 2241 motion is to address conditions of confinement, unless a defendant can show that a § 2255 motion is “inadequate or ineffective.” 28 U.S.C. § 2255(e); *Lopez-Lopez v. Sanders*, 256 F. App’x 15, at \*\*1 (8<sup>th</sup> Cir. 2007). A failed attempt at raising a § 2255 motion is not considered a showing that a § 2255 motion is inadequate or ineffective. *Lopez-Lopez*, 256 F. App’x 15, at \*\*1.

The Defendant's motion is denied. The Court advises the Defendant that he no longer has any options to present his argument to any court. His conviction and sentence are final.

IT IS ORDERED:

1. The Defendant's motion filed under 28 U.S.C. § 2241 (Filing No. 254) is denied;
2. A separate Judgment will be issued denying the § 2241 motion; and
3. The Clerk is directed to mail a copy of this Memorandum and Order to the Defendant at his last known address.

DATED this 21<sup>st</sup> day of September, 2010.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge